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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
10/620,026	07/15/2003	Beverly Cox	P-120006.1.2(UTI)(CONT.) 8608	
75	90 01/07/2004		EXAMINER	
Daniel D. Chapman			BAREFOOT, GALEN L	
Jackson Walker Ste. 2100	, LLP		ART UNIT	PAPER NUMBER
112 E. Pecan St.			3644	
San Antonio, T	X 78205		DATE MAILED: 01/07/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 and 120 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78. a) The translation of the foreign language provisional application has been received. 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78. Attachment(s) 1) Notice of References Cited (PTO-892)	1	Application No.	Applicant(s)					
Galen L Barefoot A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Embraced on time may be available used may be a formed and the processor of the Communication of th	Office Action Summany							
The MALLING DATE of this communication appears on the cover sheet with the correspondence address — Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions from gay be wideled above to give the state of the process of 37 CPR 1.13(g), in no event, however, may a reply be finely filed Extensions from gay be seviable under the provisions of 37 CPR 1.13(g), in no event, however, may a reply be finely filed Extensions for reply secretion and access the mature (20) days, a reply within the state or considered kinesy. If No period for reply secretion down, the state in thirty (20) days, a reply within the state) or the state of the period for reply secretion for reply within the state or extended period for reply within the state of the state of the communication, or event if finely fled, may reduce any extension and period for reply within the state of the state of the communication of the communication of the state of the	Office Action Summary	Examin r	Art Unit					
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THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be audied under the procincion of 37 CPR 1.13(g). In no event, however, may a reply be timely field after SIX (6) MCN/HTS from the making date of this communication. If NO period for reply is pecified above, the maximum statutory period will apply and will expect soft timely (10) days will be considered timely. If NO period for reply is pecified above, the maximum statutory period will apply and will expect SIX (6) MCN/HTS from the making date of this communication. Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S. C.§ 133). Any reply received by the Office Identified above, the maximum statutory period will apply and will expect sold (10) the specified on the maximum statutory period will apply and will replay the supplication to become ABANDONED (35 U.S. C.§ 133). Any reply received by the Office Identified and the supplication is provided by the Communication. Status 1) Responsive to communication(s) filed on	The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply							
2a) This action is FINAL. 2b)⊠ This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-20 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) is/are allowed. 6) Claim(s) is/are allowed. 6) Claim(s) is/are elected. 7) Claim(s) is/are objected to. 8) Claim(s) is/are objected to. 8) Claim(s) are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. Sea 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. §§ 119 and 120 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No application from the International Bureau (PCT Rule 17.2(a)). *See the attached detailed Office action for a list of the certified copies not received. 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78. a) The translation of the foreign language provisional application has been received. 14) Acknowledgment is made of a claim for dom	 THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). 							
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	Notice of References Cited (PTO-892) Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) Notice of Informal P						

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Drawings

This application has been filed with informal drawings which are acceptable for examination purposes only. However Formal drawings are required with a response to this office action.

The drawings rough and numerals blurred.

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer <u>cannot</u> overcome a double patenting rejection based upon 35 U.S.C. 101.

Claims 1-20 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claim1-20 of prior U.S. Patent No. 6626398. This is a double patenting rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Galen L Barefoot whose telephone number is 703-308-2567. The examiner can normally be reached on flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, charles Jordan can be reached on 703-306-4159. The fax phone number for the organization where this application or proceeding is assigned is 703-305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

December 23, 2003

Galen Barefoot

Primary Examiner

Technology Center 3644